ALTS
ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

October 5, 2002

Ms. Marlene H. Dortch
Federal Communications Commission
445 12th Street, S.W., Room 1-A836
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation in CC Docket Nos. 96-98, 98-147, 01-318, 01-321, 01-338, 02-33

Dear Ms. Dortch:

Pursuant to Sections 1.1206(b)(2) of the Commission's Rules, this letter is to provide notice in the above-captioned docketed proceedings of an ex parte meeting on October 4, 2002, by Jonathan Askin of the ALTS, Maureen Flood of CompTel, Preveen Goyal of Covad, Howard Siegel of IP Communications, Wendy Bluemling of DSL.net, Penny Bewick of NewEdge Networks, David Abel of Cellular XL Associates and Patrick Donovan and Michael Sloan of Swidler Berlin on behalf of Florida Digital Networks. The parties met with Rob Tanner, Jeremy Miller, Aaron Goldberger, Elizabeth Yockus, Mike Engel, Shanti Gupta, Scott Bergman, Julie Veatch, and Claudia Pabo of the FCC's Wireline Competition Bureau. The parties also met with Christopher Libertelli, Legal Advisor to Chairman Powell. During the meetings, the parties generally discussed CLEC concerns regarding the above-captioned proceedings. More detailed discussions of the parties' positions are contained in the parties comments and reply comments in the above-captioned proceedings.

The parties emphasized the need for the FCC to preserve the ILECs' unbundling obligations and the potential setbacks to competition and broadband deployment if the FCC were to disrupt the pro-competitive framework established by the Telecom Act and the FCC and state implementing rules. The parties stressed that CLECs are providing facts that show that the Bells still retain monopoly control over bottleneck facilities. CLECs must rely upon the Bells' loops and transport to reach customers to provision both voice and broadband services. The facts show that access to unbundled loops and transport is critical to CLECs' ability to compete, and unbundling of facilities capable of delivering broadband services must still be required. The existing unbundling rules provide enormous benefits to consumers – lower prices, innovative voice and data services, etc. In fact, the CLECs make more innovative use of the ILECs' facilities than the ILECs themselves.

The parties stressed that the ILECs have sufficient incentive to deploy additional fiber-fed loop facilities and that TELRIC may properly compensate ILECs for such network buildout. The parties noted that the Bell Companies have made similar promises over the past two decades to build telecom networks capable of delivering broadband services if commissions allowed the Bells extraordinary returns on investment. Now the Bells are simply threatening regulators with refusal to build out broadband-capable networks unless they are allowed to regain monopoly control over captive consumers. The parties noted that ensuring CLECs access to ILEC bottleneck facilities is the only means to guarantee that consumers will have access to affordable and innovative technologies and services.

The parties also noted that the FCC must adopt and enforce metrics for special access and UNE provisioning in order to stop ILEC anticompetitive provisioning practices and ensure that consumers have a fair choice among competing services. Current ILEC provisioning processes undermine CLECs' ability to compete.

The parties also stressed the need for the FCC to seek Supreme Court review of the DC Circuit opinion in *USTA v. FCC*. The parties noted that the Appeals Court failed to give sufficient deference to the FCC which failure

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could jeopardize the FCC's regulatory authority in every area subject to FCC jurisdiction. Without a definitive statement from the Supreme Court, the list of unbundled network elements is going to be unstable, and subject to conflicting court decisions, for years. The industry needs judicial certainty.

If you have any questions about this matter, please contact me at 202-969-2587.

Respectfully submitted,
/s/
Jonathan Askin

FROM THE DESK OF:
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